

**ASSEMBLY BILL**

**No. 49**

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**Introduced by Assembly Member Simitian**

December 2, 2002

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An act to amend Section 13848.6 of the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 49, as introduced, Simitian. Crimes.

Existing law establishes the High Technology Theft Apprehension and Prosecution Program Trust Fund, and specifies the purposes for which the moneys in the fund may be used. Funding is contingent upon appropriation by the Legislature, as provided. Existing law establishes the High Technology Crime Advisory Committee, composed of members representing various governmental agencies and professional organizations, appointed by the Executive Director of the Office of Criminal Justice Planning to create a written strategy for addressing high technology crime and advising on the appropriate disbursement of funds from the High Technology Theft Apprehension and Prosecution Program Trust Fund to regional task forces.

This bill would, expand the goals for law enforcement attention as identified by the committee to include the apprehension and prosecution of individuals and groups engaged in unlawful access, disruption, or destruction of public utilities or other state infrastructure. This bill would also create the California Cyber Crimes Task Force which would be comprised of each regional task force funded by the High Technology Theft Apprehension and Prosecution Program. In addition, this bill would provide that the committee would annually review the effectiveness of the California Cyber Crimes Task Force.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 13848.6 of the Penal Code is amended  
2     to read:  
3     13848.6. (a) The High Technology Crime Advisory  
4     Committee is hereby established for the purpose of formulating a  
5     comprehensive written strategy for addressing high technology  
6     crime throughout the state and to advise the Office of Criminal  
7     Justice Planning on the appropriate disbursement of funds to  
8     regional task forces.  
9     (b) This strategy shall be designed to be implemented through  
10    regional task forces. In formulating that strategy, the committee  
11    shall identify various priorities for law enforcement attention,  
12    including the following goals:  
13    (1) To apprehend and prosecute criminal organizations,  
14    networks, and groups of individuals engaged in the following  
15    activities:  
16    (A) Theft of computer components and other high technology  
17    products.  
18    (B) Violations of Penal Code Sections 211, 350, 351a, 459,  
19    496, 537e, 593d, and 593e.  
20    (C) Theft of telecommunications services and other violations  
21    of Penal Code Sections 502.7 and 502.8.  
22    (D) Counterfeiting of negotiable instruments and other  
23    valuable items through the use of computer technology.  
24    (E) Creation and distribution of counterfeit software and other  
25    digital information, including the use of counterfeit trademarks to  
26    misrepresent the origin of that software or digital information.  
27    (2) To apprehend and prosecute individuals and groups  
28    engaged in the unlawful access, destruction, or unauthorized entry  
29    into and use of private, corporate, or government computers and  
30    networks, including wireless and wireline communications  
31    networks and law enforcement dispatch systems, and the theft,  
32    interception, manipulation, destruction, and unauthorized  
33    disclosure of data stored within those computers.  
34    (3) To apprehend and prosecute individuals and groups  
35    engaged in the theft of trade secrets.



(4) To investigate and prosecute high technology crime cases requiring coordination and cooperation between regional task forces and local, state, federal, and international law enforcement agencies.

*(5) To apprehend and prosecute individuals and groups engaged in the unlawful access, disruption, or destruction of public utilities or other state infrastructure.*

(c) The Executive Director of the Office of Criminal Justice Planning shall appoint the following members to the committee:

(1) A designee of the California District Attorneys Association.

(2) A designee of the California State Sheriffs Association.

(3) A designee of the California Police Chiefs Association.

(4) A designee of the Attorney General.

(5) A designee of the California Highway Patrol.

(6) A designee of the High Tech Criminal Investigators Association.

(7) A designee of the Office of Criminal Justice Planning.

(8) A designee of the American Electronic Association to represent California computer system manufacturers.

(9) A designee of the American Electronic Association to represent California computer software producers.

(10) A designee of the California Cellular Carriers Association.

(11) A representative of the California Internet industry.

(12) A designee of the Semiconductor Equipment and Materials International.

(13) A designee of the California Cable Television Association.

(14) A designee of the Motion Picture Association of America.

(15) A designee of either the California Telephone Association or the California Association of Long Distance Companies. This position shall rotate every other year between designees of the two associations.

~~(16) A designee of the Science and Technology Agency, if Senate Bill 1136 is enacted, and, as enacted, creates the Science and Technology Agency, otherwise, a designee of the Department of Information Technology.~~

~~(17)~~ A representative of the California banking industry.

(d) The Executive Director of the Office of Criminal Justice Planning shall designate the Chair of the High Technology Crime Advisory Committee from the appointed members.

(e) The advisory committee shall not be required to meet more than 12 times per year. The advisory committee may create subcommittees of its own membership, and each subcommittee shall meet as often as the subcommittee members find necessary. It is the intent of the Legislature that all advisory committee members shall actively participate in all advisory committee deliberations required by this chapter.

Any member who, without advance notice to the executive director and without designating an alternative representative, misses three scheduled meetings in any calendar year for any reason other than severe temporary illness or injury (as determined by the Executive Director of the Office of Criminal Justice Planning) shall automatically be removed from the advisory committee. If a member wishes to send an alternative representative in his or her place, advance written notification of this substitution shall be presented to the executive director. This notification shall be required for each meeting the appointed member elects not to attend.

Members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for travel and per diem expenses incurred as a result of attending meetings sponsored by the Office of Criminal Justice Planning under this chapter.

(f) The executive director, in consultation with the High Technology Crime Advisory Committee, shall develop specific guidelines and administrative procedures for the selection of projects to be funded by the High Technology Theft Apprehension and Prosecution Program, which guidelines shall include the following selection criteria:

(1) Each regional task force that seeks funds shall submit a written application to the committee setting forth in detail the proposed use of the funds.

(2) In order to qualify for the receipt of funds, each proposed regional task force submitting an application shall provide written evidence that the agency meets either of the following conditions:

(A) The regional task force devoted to the investigation and prosecution of high technology-related crimes is comprised of

1 local law enforcement and prosecutors, and has been in existence  
2 for at least one year prior to the application date.

3 (B) At least one member of the task force has at least three years  
4 of experience in investigating or prosecuting cases of suspected  
5 high technology crime.

6 (3) *Each regional task force shall be identified by a name that*  
7 *is appropriate to the area that it serves.* In order to qualify for  
8 funds, a regional task force shall be comprised of local law  
9 enforcement and prosecutors from at least two counties. At the  
10 time of funding, the proposed task force shall also have at least one  
11 investigator assigned to it from a state law enforcement agency.  
12 Each task force shall be directed by a local steering committee  
13 composed of representatives of participating agencies and  
14 members of the local high technology industry.

15 (4) *The California Cyber Crimes Task Force shall be*  
16 *comprised of each regional task force developed pursuant to this*  
17 *subdivision.*

18 (5) Additional criteria that shall be considered by the advisory  
19 committee in awarding grant funds shall include, but not be limited  
20 to, the following:

21 (A) The number of high technology crime cases filed in the  
22 prior year.

23 (B) The number of high technology crime cases investigated in  
24 the prior year.

25 (C) The number of victims involved in the cases filed.

26 (D) The total aggregate monetary loss suffered by the victims,  
27 including individuals, associations, institutions, or corporations,  
28 as a result of the high technology crime cases filed, and those under  
29 active investigation by that task force.

30 ~~(5)~~

31 (6) Each regional task force that has been awarded funds  
32 authorized under the High Technology Theft Apprehension and  
33 Prosecution Program during the previous grant-funding cycle,  
34 upon reapplication for funds to the committee in each successive  
35 year, shall be required to submit a detailed accounting of funds  
36 received and expended in the prior year in addition to any  
37 information required by this section. The accounting shall include  
38 all of the following information:

39 (A) The amount of funds received and expended.

1 (B) The use to which those funds were put, including payment  
2 of salaries and expenses, purchase of equipment and supplies, and  
3 other expenditures by type.

4 (C) The number of filed complaints, investigations, arrests, and  
5 convictions that resulted from the expenditure of the funds.

6 (g) The committee shall annually review the effectiveness of  
7 ~~the regional task forces created~~ *the California Cyber Crimes Task*  
8 *Force* in deterring, investigating, and prosecuting high technology  
9 crimes and provide its findings in a report to the Legislature and  
10 the Governor. This report shall be based on information provided  
11 by the regional task forces in an annual report to the committee  
12 which shall detail the following:

13 (1) Facts based upon, but not limited to, the following:

14 (A) The number of high technology crime cases filed in the  
15 prior year.

16 (B) The number of high technology crime cases investigated in  
17 the prior year.

18 (C) The number of victims involved in the cases filed.

19 (D) The number of convictions obtained in the prior year.

20 (E) The total aggregate monetary loss suffered by the victims,  
21 including individuals, associations, institutions, corporations, and  
22 other relevant public entities, according to the number of cases  
23 filed, investigations, prosecutions, and convictions obtained.

24 (2) An accounting of funds received and expended in the prior  
25 year, which shall include all of the following:

26 (A) The amount of funds received and expended.

27 (B) The uses to which those funds were put, including payment  
28 of salaries and expenses, purchase of supplies, and other  
29 expenditures of funds.

30 (C) Any other relevant information requested.